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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/165,772	10/02/1998	JOHN EDWARD COOK	051481-5047-01	8315

7590 11/15/2005
siemens corporation
intellectual property department
170 Wood Avenue South
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EXAMINER

MILLER, ROSE, MARY

ART UNIT	PAPER NUMBER
2856	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/165,772

Applicant(s)

COOK ET AL.

Examiner

Rose M. Miller

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 17-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,17,18 and 20-24 is/are rejected.
- 7) ☒ Claim(s) 3 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-2, 17-18, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Otsuka et al. (US 5,425,344)**.

With regards to claims 1-2, 17-18, 20-24, **Otsuka et al.** discloses a method of diagnosing an evaporative emission control system to determine if a leak is present in the system comprising, supplying from the tank fuel being combusted by the automotive vehicle (inherent in the system disclosed); monitoring a pressure level within the system (see column 12 lines 37-54) over a period of time, the monitoring includes monitoring the pressure level to determine an initial pressure at a commencement of the period and a second pressure at the end of the period (inherent in determining the rate of variation of the pressure within the system, see column 12 lines 37-54); measuring and recording temperatures at both a first time and a second time; and indicating a leak condition through a combination of the measurement of the rate of variation of the pressure level within the system and the change in temperature of the system.

Otsuka et al. discloses the claimed invention with the exception of specifically computing a temperature-compensated pressure based on the previously measured values.

Otsuka et al. clearly teaches that the determination of a leak is dependent upon both the initial and the final measurement of pressure within the system (rate of variation of the pressure relies on pressures measured at the beginning of a measurement cycle and at the end of the measurement cycle) and on the initial and final measurement of temperature in order to compensate the measured pressure for the occurrence of a change in temperature. Therefore, one of ordinary skill in the art would know to modify **Otsuka et al.** in order to base the threshold used in the comparison upon the initial measured pressure and the change in temperature to provide for a temperature-compensated pressure as one of ordinary skill in the art would be extremely familiar with the ideal gas law (which can be found on pages 5-6 of Applicant's specification and in most basic text books dealing with fluid or gas properties) which provides for the change in pressure of a system (especially a closed system as disclosed **Otsuka et al.**) when accompanied by a change in temperature of the system.

Response to Arguments

4. Applicant's arguments, see pages 7-11 of the Amendment, filed 23 August 2005, with respect to the Section 112, first paragraph rejections of claims 1-3 and 17-24 have been fully considered and are persuasive. The Section 112, first paragraph rejections of claims 1-3 and 17-24 has been withdrawn.

5. Applicant's arguments with respect to claims 1-2, 17-18, and 20-24 with regards to the rejection under 103 have been considered but are moot in view of the new ground(s) of rejection.

6. Claims 3 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rose M. Miller whose telephone number is 571-272-2199. The examiner can normally be reached on Monday - Friday, 7:30 am to 3:30 pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RMM
14 November 2005



HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800